

CONTRACT -According to sec.2(h), a contract is defined as an agreement enforceable by law.

AGREEMENT - According to sec.2(e), every promise and every set of promises forming consideration for each other.

CONSIDERATION- is the return benefit the parties to the contract get.

Agreement = Offer + Acceptance

PROMISE- According to sec.2(b), a proposal when accepted becomes a promise.

| AGREEMENT | Contract |
|---------------------------------------|---|
| Offer + Acceptance | Agreement + its legal enforceability |
| May create social or legal obligation | Creates only legal obligations between the parties. |
| All agreement do not become contracts | All contracts are based on agreements |

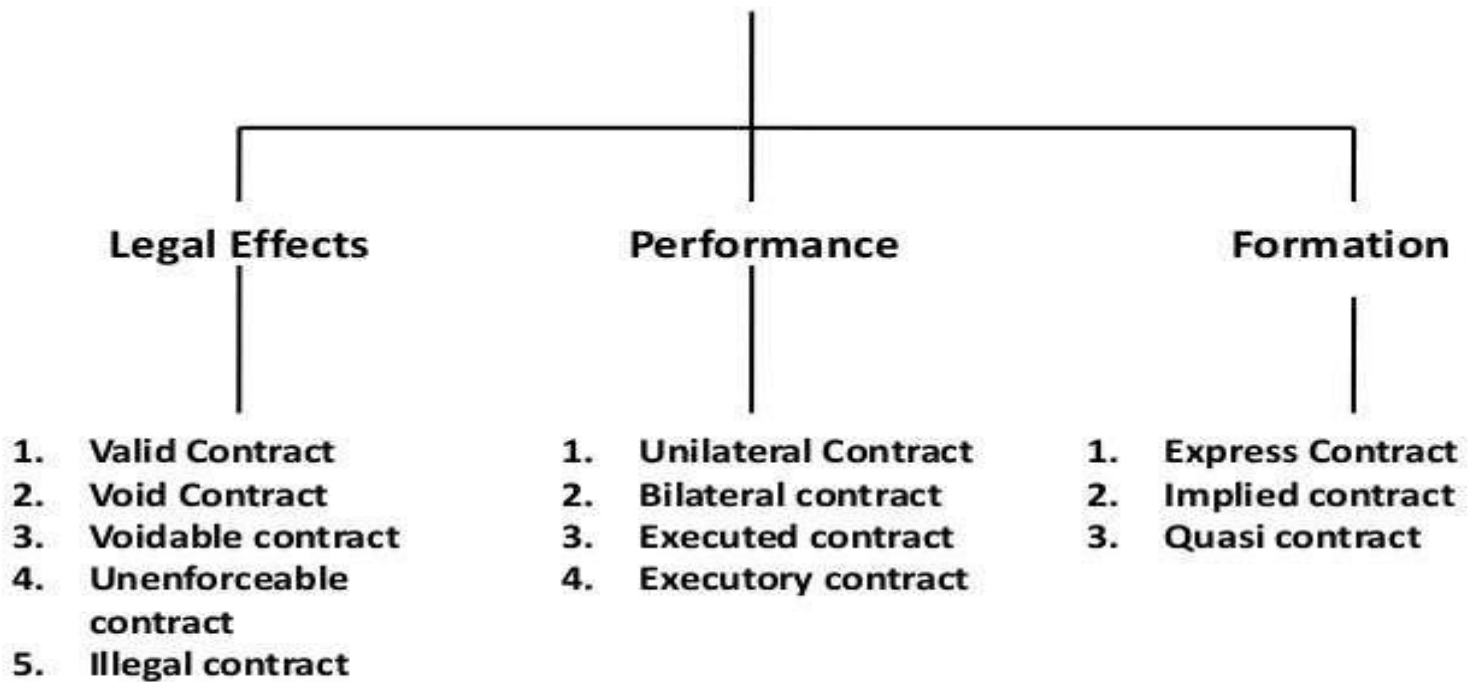
CONSENSUS - AD – IDEM-

According to Sec.13, meeting of minds or identity of minds or receiving the same thing in same sense at same time.

ESSENTIAL ELEMENTS OF A VALID CONTRACT (Sec.10)

1. A Valid Offer & acceptance.
2. Intention to create legal relationship.
3. Consensus – ad – idem.
4. Lawful Consideration.
5. Capacity to contract.
6. Free consent.
7. Legality of object.
8. Possibility of performance.
9. Writing & registration.

Classification of contracts



TYPES OF CONTRACTS- Based on Legal Effects

Valid contract – If all the conditions are fulfilled it is called as a valid contract.

Invalid contract - In a contract if any one condition is not fulfilled.

Is void (Void-ab-initio)– An agreement which is not valid from the beginning.

Becomes void - An agreement which is valid in the beginning but due to some supervening impossibility the contract becomes void.

Voidable contract - A contract which is valid unless until avoided by either the party.

Illegal contract - An agreement forbidden by law. It involves the commission of crime or violate public policy, or immoral in nature.

Unenforceable contract - It is valid but due to some technical defect the contract becomes void. In case defects are removed the contract is enforceable.(lack of registration, lack of signature etc.,)

Based on formation

Express contract – When contracts are either in writing or in oral.

Implied contract - When contracts are neither in writing nor in oral but inferred from the acts or circumstances of a particular case.

Quasi Contract: It is not actually entered into by the parties but is something imposed on a party by law.

Based On Performance

Executed contract - In a contract where both the parties have performed their obligation, there remains nothing to perform.

Executory contract - In a contract where both the parties are yet to perform their obligation.

Unilateral contract - In a contract one party has performed his obligation and other person is yet to perform his obligation.

Bilateral contract - In a contract where both the parties have performed their obligation. Bilateral & Executory are same and inter - changeable.

Offer

- According to Sec.2(a), when a person signifies to another his willingness to do or to abstain from doing something with a view to obtaining the assent of that other to such an act or abstinence, he is said to make a proposal.

TYPES OF OFFER:

- Express offer
- Implied offer
- Specific offer
- General offer
- Cross offer
- Counter offer
- Standing offer

Express offer - When offer is given to another person either in writing or in oral.

Implied offer - When offer is given to another person neither in writing nor in oral.

Specific offer - When offer is given to a specific person.

General offer - When offer is given to entire world at a large.(Carlill Vs. Carbolic smoke ball Co.,)

Cross offer - When both the persons are making identical offers to each other in ignorance of other's offer.

Counter offer – When a person to whom the offer is made, instead of accepting the terms of the offeror desires modification of the same.

Standing offer - An offer which remains continuously enforceable for a certain period of time.

LEGAL RULES FOR OFFER

- ❖ Offer must be given with an intention to create a legal relationship. (*Balfour Vs. Balfour*)
- ❖ Offer must be definite. (*Taylor Vs. Portington*)
- ❖ There is a difference between offer, invitation to offer, invitation to sale. (*Harris Vs. Nickerson*)
- ❖ Offer must be communicated. (*Lalman Vs. Gauri Dutt*). Communication of offer is complete only when it reaches the person to whom it is made.
- ❖ Mere statement of price is not an offer. (*Harvey Vs. Facey*)

Acceptance

According to sec.2(b), when a person made a proposal to another to whom proposal is made, if proposal is assented there to, it is called acceptance.

LEGAL RULES FOR ACCEPTANCE

- Acceptance must be absolute and unconditional. (Neale Vs Merret)
- Acceptance must be given as per the mode prescribed by the offerer.
- Acceptance must be given before the lapse of time or within reasonable time.
- Acceptance may be given by any person in case of general offer
 - Acceptance must be given by the person to whom the offer is made or by an authorised person. (Powell Vs Lee)
 - Acceptance must be communicated. (Bordgon Vs. Metropolitan Rly. Co.)
- Mental acceptance Is No acceptance or acceptance must Not Be derived from silence.
- Acceptance must not be precedent to offer.

Communication of Offer and Acceptance

According to Section 4,

The communication of offer is complete when it comes to the knowledge of the person to whom it is made.

The communication of acceptance is complete-

- As against the proposer-** when it is put in to a course of transmission to him so as to be out of the power of the acceptor.
- As against the acceptor** – when it comes to the knowledge of the proposer.

Revocation of offer and acceptance

- A proposal may be revoked at any time before the communication of acceptance is complete as against the proposer but not afterwards.
- An acceptance may be revoked at any time before the communication of acceptance is complete as against the acceptor but not afterwards.

B offered to sell his house to A for Rs.50,000. A accepted the offer by post. On the next day, A sent a telegram revoking the acceptance which reached B before the letter. Is the revocation of acceptance valid? What would be the effect if both the letter of acceptance and the telegram of revocation of acceptance reach B at the same time?

Communication of offer - 3rd June. Communication of acceptance - as against the proposer - 5th June

As against the acceptor - 7th June Proposal can be revoked – before 5th June

Acceptance can be revoked – before 7th June

Lapse of offer:

- Revocation
- Lapse of time
- Death or Insanity of offerer
- Counter Offer
- Acceptance not as per the prescribed mode
- Destruction of subject matter of contract
- Rejection of offer by offeree.

CONSIDERATION

□ According to sec 2(d) consideration is defined as “when at the desire of the promisor, or promisee or any other person has done or abstained from doing or does or abstains from doing, or promises to do or to abstain from doing, something, such an act or abstinence or promise is called a consideration for the promise

A party to an agreement who promises to do something must gain something in return. This something in return is called consideration.

LEGAL RULES AS TO CONSIDERATION

- 1) Consideration must always be provided at the desire of the Promisor
- 2) It may be provided by the promisee or any other person. [Chinnaya v. Ramayya]
- 3) It may be past, present or future .
- 4) It need not be adequate. It must be of some value in the eyes of law
- 5) It must be real, certain and possible. (Harvey Vs Gibbons) (Stilk Vs Myrick).
- 6) It must not be illegal, immoral or opposed to public policy.

Contract without consideration is void – Exceptions

- Love & affection (Venkataswamy Vs Rangaswamy)
- Compensation for voluntary service
- Promise to pay a time – barred debt
- Completed gift
- No consideration is necessary to create an Agency
- Charity (**Kedarnath v. Gauri Mohamed**) (**Abdul Aziz Vs Masum Ali**)
- Guarantee by surety

STRANGER TO CONTRACT

It is general rule of contract that only parties to contract can sue & be sued on that contract .This rule is known as 'Doctrine of privity' i.e relationship between the parties to contract . (Dunlop Pneumatic Tyre Co. Vs Selfridge and Co Ltd)

Exceptions

- 1) A trust or a charge
- 2) Marriage settlement,partition or other family arrangements .(Shubbu ammal Vs Subramaniyam)
- 3) Estoppel (Acknowledgement)
- 4) Assignment of contract .
- 5) Contract with agent .
- 6) Covenants running with land .

Comprehensive Questions

Short answer question

Q.1 How many types does contract can be classified into, on basis of formation? Explain

Q2. Define Proposal and Acceptance. Explain

Q3. what do you understand by offer? what are its legal requirements.

Long answer question

Q.1 Explain in brief the rules relating to 'Acceptance' of an offer under the provisions of the Indian Contract Act, 1872.

Q.2 What do you understand by the term 'Consideration'? Are there any circumstances under which a contract, under the provisions of the Indian Contract Act, 1872, without consideration is valid? Explain

References

- Anand, R.L. & Iyer, Commentary on the Specific Relief Act, 1963 (Act No. 47 of 1963), ed.12th, (2011), Delhi Law House. .
- Awasthi, S.K., “Digest on Indian Contract Act, 1872: with allied legislations”, ed.1st, (1999), Dwivedi & Co., Allahabad.
- Bangia, R.K. (Dr.), “Law of Contract & Specific Relief with Special emphasis on Law of Tender”, 1994(1), reprint 2015.
- Beatson, J., “Anson’s Law of Contract”, ed.27th, (1998), and ed.28th, (2002), published by Nairobi: Oxford University Press.
- Bhadbhade, Neelima, “Contract Law in India”, ed.2nd, (2012), published by Kluwer Law Intl.
- Chawla, R.C. & Garg, K.C., “Business and Company Law”, ed.1st, (1996), Kalyani Publishers, New Delhi.

Declaration

The content is exclusively meant for academic purposes and for enhancing teaching and learning. Any other use for economic / commercial purpose is strictly prohibited. The users of the content shall not distribute, disseminate or share it with anyone else and its use is restricted to advancement of individual knowledge. The information provided in this e-content is authentic and best as per knowledge.

